

Maine Revised Statutes
Title 36: TAXATION
Chapter 7: UNIFORM ADMINISTRATIVE PROVISIONS

§151. REVIEW OF DECISIONS OF STATE TAX ASSESSOR

1. Petition for reconsideration. A person who is subject to an assessment by the State Tax Assessor or entitled by law to receive notice of a determination of the assessor and who is aggrieved as a result of that action may request in writing, within 60 days after receipt of notice of the assessment or the determination, reconsideration by the assessor of the assessment or the determination. If a person receives notice of an assessment and does not file a petition for reconsideration within the specified time period, a review is not available in Superior Court or before the board regardless of whether the taxpayer subsequently makes payment and requests a refund.

[2011, c. 694, §3 (RPR) .]

2. Reconsideration by division. If a petition for reconsideration is filed within the specified time period, the assessor shall reconsider the assessment or the determination as provided in this subsection.

A. Upon receipt by the assessor, all petitions for reconsideration must be forwarded for review and response to the division in the bureau from which the determination issued. [2011, c. 694, §3 (RPR) .]

B. Within 90 days of receipt of the petition for reconsideration by the responding division, the division shall approve or deny, in whole or in part, the relief requested. Prior to rendering its decision and during the 90 days, the division may attempt to resolve issues with the petitioner through informal discussion and settlement negotiations with the objective of narrowing the issues for an appeals conference or court review, and may concede or settle individual issues based on the facts and the law, including the hazards of litigation. By mutual consent of the division and the petitioner, the 90 days may be extended for good cause, such as to allow further factual investigation or litigation of an issue by that or another taxpayer pending in court. [2011, c. 694, §3 (RPR) .]

C. If the matter between the division and the petitioner is not resolved within the 90-day period, and any extension thereof, the petitioner may consider the petition for reconsideration denied. The petitioner may not consider the petition for reconsideration denied after either the reconsidered decision has been received by the petitioner or the expiration of 9 years following the filing of the petition for reconsideration, whichever occurs first. A petition for reconsideration considered denied pursuant to this paragraph constitutes final agency action. A petitioner elects to consider the petition for reconsideration denied pursuant to this paragraph by:

(1) For a small claim request, filing a petition for review in Superior Court. For purposes of this subparagraph, "small claim request" has the same meaning as in paragraph E; or

(2) For all other requests:

(a) Filing a statement of appeal with the board; or

(b) Filing a petition for review in Superior Court. [2011, c. 694, §3 (RPR) .]

D. A reconsideration by the division is not an adjudicatory proceeding within the meaning of that term in the Maine Administrative Procedure Act. [2011, c. 694, §3 (RPR) .]

E. A reconsidered decision rendered on any request other than a small claim request constitutes the assessor's final determination, subject to review either by the board or directly by the Superior Court.

A reconsidered decision rendered on a small claim request constitutes the assessor's final determination

and final agency action and is subject to de novo review by the Superior Court. For purposes of this paragraph, "small claim request" means a petition for reconsideration when the amount of tax or refund request in controversy is less than \$1,000. [2013, c. 45, §4 (AMD).]

F. A person who wishes to appeal a reconsidered decision under this section:

- (1) To the board must file a written statement of appeal with the board within 60 days after receipt of the reconsidered decision; or
- (2) Directly to the Superior Court must file a petition for review in the Superior Court within 60 days after receipt of the reconsidered decision.

If a person does not file a request for review with the board or the Superior Court within the time period specified in this paragraph, the reconsidered decision becomes final and no further review is available. [2011, c. 694, §3 (NEW).]

G. Upon receipt of a statement of appeal or petition for review filed by a person pursuant to paragraph F, the board or Superior Court shall conduct a de novo hearing and make a de novo determination of the merits of the case. The board or Superior Court shall enter those orders and decrees as the case may require. The burden of proof is on the person, except as otherwise provided by law. [2011, c. 694, §3 (NEW).]

[2013, c. 45, §4 (AMD) .]

SECTION HISTORY

1977, c. 694, §676 (NEW). 1979, c. 378, §5 (AMD). 1981, c. 364, §9 (AMD). 1989, c. 848, §3 (AMD). 1989, c. 871, §2 (AMD). 1991, c. 824, §B10 (AMD). 1991, c. 873, §3 (RPR). 1993, c. 395, §32 (AFF). 1993, c. 395, §2 (RPR). 1997, c. 668, §11 (AMD). 1999, c. 414, §7 (AMD). 2001, c. 583, §1 (AMD). 2003, c. 242, §1 (AMD). 2011, c. 380, Pt. J, §5 (AMD). 2011, c. 439, §12 (AFF). 2011, c. 439, §2 (RPR). 2011, c. 694, §3 (RPR). 2013, c. 45, §4 (AMD).

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